HIGH COURT OF UTTARANCHAL AT NAINITAL

Review Petition No.4518 of 2004
IN

W.P. No. 3596 (SS) of 2001
(Old No. 23736 of 1999)

Chinta Mani Pathak ..... Petitioner
—

Versus

District Inspector of School, Nainital ..... Respondents
& others

Dated: 20.8.2004

Hon. Rajesh Tandon J.

Present review application has been filed on behalf of the respondent no.3. It has been prayed that the petitioner is not entitled for the pensionary benefits alone.

Heard Sri M.C. Kandpal for the petitioner and Sri V.B.S. Negi for the respondents. The respondents are ready to release the balance amount which is due to the petitioner. So far as the pensionary benefits are concerned, the same shall be considered by the respondents by passing a reasoned order on the representation made by the petitioner.

Subject to the aforesaid modification the review petition is disposed of.

(Rajesh Tandon J.)

20.8.2004

HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 3596 of 2001 (S/S)

Chinta Mani Pathak Son of Late Bhawani Dutt
vs.
District Inspector of School Nainital and others.

Approved for reporting.

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Not approved for reporting

Date of decision 5.12.2003

Initial of Judge

HIGH CORUT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 3596(S/S) 2001

Chinta Mani Pathak
Son of late Bhawani Dutt
Pathak, resident of Khurpia
Form Kichha, Post and Tehsil
Kichha, District: Udham Singh Nagar. …..Petitioner

VS

(1) District Inspector of School Nainital
(2) Keshar Vidya Samittee Keshar Junior
High School Khurpia agricultural form
Kichha Udham Singh Nagar.
(3) General Manager Keshar Enterprises
Baheri, Tehsil Baheri, District Bareilly. ……Respondent

Counsel for the petitioner Shri M.C. Kandpal

Dated:-5-12-2003

Hon'ble Rajesh Tandon, J.

Heard Shri M.C. Kandpal learned counsel for the petitioner and Chief standing counsel for the respondent.

By the present writ petition the petitioner has claimed the following reliefs;-

(1) Issue a writ order of direction of in the nature of mandamus commanding and directing the respondents to pay the petitioner all the dues, and retirement benefits immediately.

(2) Issue a writ order or direction in the nature of mandamus commanding and directing the respondents to pay 12% interest to the petitioner.

(3) Issue any other writ, order or direction of any nature as this Hon'ble Court may deem fit and proper.

(4) Award the cost of the petition to the petitioner.

Brief facts giving rise to the present writ petition are that the petitioner was appointed in the primary pathshala Khurpia from Kichha Udhamsingh Nagarm, on the post of assistant teacher, in the year of 1956, and after getting the training of BTC in the year of 1967-68 he was appointed as Head Master of the said institute.

Petitioner has stated that the management of the School has made it clear that those who are working since 1977, is entitled to get the benefit of the government order provided the petitioner is a trained teacher.

Petitioner has submitted that after March 1995 the management without showing any cause is not paying the salary and other benefits to the petitioner.

Further according to the petitioner he retired from the service in July 1997 but he is not getting any benefits regarding gratuity, bonus, pension and balance of his salary.

<u>Pragraph-6</u> " That after retirement from the service the petitioner is not getting only benefits from the management, gratuity, bonus, pension, and balance of the salary, while the total balance is approximately about 3 to 4 lacks.'

<u>Paragraph-13</u> " That the petitioner is entitled to get all the benefits, and balance or salary, and other retirement benefits as other teachers are getting of the Government service as teachers."

Petitioner has stated that inspite of various representation he has not been paid the retirement benefits.

In the State of Kerala & others V/s M. Padmanabhan & others reported in (1985) 1 S.C.C. 429 the Apex Court has held that the pension and gratuity are no longer any bounty to be distributed by the Government to its employees, but have become valuable rights and property in their hands. The observations of the Apex Court are quoted below:-

> ***"Pension and gratuity are no longer any bounty to be distributed by the Government to the employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."***

The respondents, therefore, are directed to release the balance amount of gratuity, bonus within two months failing which penal interest will be charged from the respondents. Respondents shall also pay the entire balance of the retrial benefits to the petitioner including pensionary benefits.

However, pension amount shall be paid regularly to the petitioner.

Respondents are directed to comply the order within a period of 2 months, failing which penal interest will be charged.

Consequently, writ Petition is disposed of with the direction to pay pensionary benefits and other retirement benefits to the petitioner.

The writ petition is disposed of. There will be no order as to costs.

Sd/-

5-12-2003

Mohit